

DEPARTMENT OF EMPLOYEE TRUST FUNDS
INCOME CONTINUATION INSURANCE ADMINISTRATION MANUAL-STATE

CHAPTER 7 — BENEFITS

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700 Introduction

The Income Continuation Insurance (ICI) program is an integrated disability benefit plan designed to supplement other benefits to maintain a specified total income. Integration of benefits refers to the combined amount of disability income from all sources set as a percentage of the gross basic earnings, excluding overtime and shift differential, received by the employee in the last complete payroll period prior to disability. For employees working fewer than 12 months in the previous calendar year, ICI benefits are based on the percentage of the claimant's prior year annual earnings as reported to the Wisconsin Retirement System (WRS). Although the individual sources of the total benefit may vary, the specified total benefit will be met under this program.

Insured employees qualify for ICI benefits on the day after they cease working and have been continuously and totally disabled for 30 calendar days, or in the case of UW faculty, for their selected elimination period. (UW faculty are required to select an elimination period of 30, 90, 125 or 180 calendar days that, in the event of disability, must elapse before ICI benefits begin.) No benefit payments can be made while earnings are payable for accumulated sick leave hours and/or earnings paid for vacation, holiday and comp time.

ICI benefits are based on 75% of the claimant's pre-disability earnings, less any other benefit income sources, therefore employers must notify the third party administrator by completing the *Income Continuation Insurance Report of Employment and Earnings* (ET-5901) immediately upon becoming aware that an employee receiving ICI benefits is also receiving income from other benefit sources. (Refer to subsection 708 for additional information on benefit offsets.)

Eligibility requirements for other disability programs administered by the Department of Employee Trust Funds (ETF) can be found in the following disability booklets:

- *Disability Benefits* (ET-5102)
- *§ 40.65 Duty Disability and Survivor Benefits* (ET-5103)
- *Long-Term Disability Insurance* (ET-5314)

These booklets are available on ETF's Internet site at <http://etf.wi.gov> or by contacting ETF. (Refer to subchapter 109 for alternative methods of obtaining ICI forms.)

701 Eligibility for ICI Benefits

ICI benefit eligibility requires that ICI coverage be in effect on the “first date of disability” as defined in the ICI plan. ICI benefit payments do not begin until a claimant has been totally and continuously disabled through the entire elimination period. No benefit payments can be paid while sick leave is payable or for days falling within the elimination period.

ICI benefits are payable beginning the first calendar day following the last day of the elimination period or the last day of sick leave (maximum 130 days), whichever is later, and for each succeeding calendar day until the disability ceases, as defined by ICI plan provisions. ICI benefits are paid only for full days of disability, not partial days. No ICI benefit payments can be made while earnings are still being paid for vacation, holiday pay, etc.

TOTALLY DISABLED means the claimant is under the regular care and attendance of a physician, and:

During the first 12 months of disability - is unable, by reason of any medically determinable physical or mental impairment as supported by objective medical evidence, to perform the duties of their position.

Following the first 12 months of disability - is unable, by reason of any medically determinable physical or mental impairment as supported by objective medical evidence, to engage in any substantial gainful activity for which the claimant is reasonably qualified, with due regard to the their education, training and experience.

Claimants shall be considered engaged in substantial gainful activity when earnings from that activity are equal to or greater than the gross ICI benefit for the same period of time.

702 Determining Dates of the Elimination Period

The ICI third party administrator determines the beginning date of the elimination period. Sick leave, vacation, holiday and compensatory time need NOT be exhausted before ICI benefit payments can begin. Subject to employer personnel policies and rules, claimants may use such time at their own discretion. However, no ICI benefits are payable for any day for which the claimant is paid sick leave, vacation, holiday or compensatory time after the elimination period is satisfied. Any vacation or compensatory time used after the selected elimination period must be reported to ETF on *Income Continuation Insurance Transaction Report* (ET-5901).

A. The First Date of Disability

The first date of disability is the first date certified by a physician that the claimant is no longer able to perform the duties of their position due to a medical condition. This date may not be earlier than the last date on which the claimant performed any work. If the claimant did not see a physician on the last day worked and has not been receiving treatment for the medical condition prior to ceasing work, the first date of treatment is the first possible date the elimination period can begin. Claimants must have ICI coverage in effect on the first date of treatment. ICI premiums must be continued in full until the employer receives notification of the claim's approval.

B. The First Date of the Elimination Period

The first day of the elimination period will be no earlier than the day after the last day worked or, if the claimant did not see a physician on the last day worked, the day the claimant is first seen for medical treatment following the last day worked. The claimant must be treated by a physician after they cease working to determine whether the medical condition meets the plan's disability definition. However, if the claimant is involved in a treatment plan with a physician for a medical condition prior to ceasing employment, and the physician indicates the disability definition has been met, the elimination period may begin the day following the last day worked. In no event can the elimination period begin prior to the date the claimant is completely off work and satisfies the above definitions of total disability (and **only** if the claimant is still insured under the ICI plan).

C. The First Date of ICI Benefits

The employee qualifies for ICI benefits after serving the elimination period or exhausting the maximum of 130 days of sick leave, whichever occurs first. To determine the elimination period, the third party administrator will begin with the first date of disability and count consecutive calendar days to the end of the elimination period.

D. Effect of Sick Leave on the Elimination Period

If the employee's sick leave is greater than the elimination period, report the sick leave as of the end of the employee's last day worked plus sick leave earned while continuing in pay status. The third party administrator will use Monday through Friday as the standard workweek to calculate the date the sick leave is exhausted. For employees with a non-standard workweek send a copy of the work schedule with the *Income Continuation Insurance Employer Statement* (ET-5351).

Employees entitled to receive pay for a particular Legal Holiday, the designated calendar date of that holiday will not be counted as a day of sick leave usage. The following Legal Holidays extend the date sick leave is exhausted:

New Year's Eve	Labor Day
New Year's Day	Thanksgiving
Martin Luther King Jr. Day	Christmas Eve
Memorial Day	Christmas Day
Independence Day	

Each workday will consist of 8 hours of sick leave unless the claimant is less than a 100% time employee. Part-time employees will have sick leave considered used in proportion to the number of hours worked in a day in their position appointment. For example, an employee appointed to a 60% position will have sick leave considered used at a rate of 4.8 hours per day (8 hours normal workday x 60% = 4.8 hours sick leave).

Sick leave usage is calculated commencing with the first workday following the last day worked. Take into consideration sick leave used if the employee did not complete a full workday on their last day worked.

703 Earnings for Benefit Payment Purposes

The amount of “earnings” used for ICI claim computation purposes is the claimant's gross basic salary, excluding overtime, during the last complete payroll period prior to the date disability begins. Exception: employees working less than 12 months in the previous calendar year (e.g., seasonal, academic, project or LTE) have ICI benefits based on the WRS earnings reported to ETF by the employer for the entire preceding calendar year prior to the first date of disability, rounded to the next higher thousand. However, if the prior year represents an interruption of earnings extending three consecutive months or more or the employee is newly hired, the earnings are based on the projected salary. The ICI benefit is based on those projected earnings. (Refer to subchapter 301 and 400.)

In cases where a permanent change in the employee's percentage of appointment results in a new projection of earnings, the employee must work at the adjusted percentage of appointment for a minimum of one complete pay period prior to the first date of disability for the ICI benefit to be based on the adjusted salary.

704 Benefit Payments

Following completion of the claimant's elimination period, ICI benefits are paid for every day of continuing disability, including weekends. For employees paid biweekly, the gross salary during the last complete payroll period (as indicated in subchapter 703) is multiplied by 2.143 to obtain the monthly salary. The monthly salary is then multiplied by 75% to obtain the monthly benefit amount. Benefits are paid monthly, with a check dated the first of the month for benefits covering the previous month. For each day of the benefit period less than one month partial monthly payments are determined at one-thirtieth (1/30) of the monthly benefit.

- Example illustrating the monthly ICI benefit calculation:

Biweekly Salary x 2.143 = Monthly Earnings x 75% = Monthly ICI Benefit

$\$2,724.00 \times 2.143 = \$5,837.53 \times 75\% = \$4,378.15$

- Example illustrating a prorated monthly ICI benefit calculation:

**Monthly ICI Benefit ÷ 30 = Daily ICI Benefit x days paid in partial month =
prorated Monthly ICI Benefit**

$$\$4,378.15 \div 30 = \$145.94 \times 20 \text{ (days in partial month)} = \$2,918.80$$

NOTE: The maximum monthly benefit payable with standard ICI coverage is \$4,000; with supplemental ICI coverage the maximum monthly benefit is \$7,500. In the example above, the employee had standard ICI and supplemental ICI coverage. Had the employee been enrolled in standard ICI only, the maximum monthly benefit would equal \$4,000 with a daily ICI benefit amount of \$133.33.

ICI pays disabled employees a monthly amount that, together with other income from disability or retirement plan sources listed in subchapter 708, maintains a specified percentage of the employee's pre-disability earnings. The specified percentage remains the same for the entire disability period, although the benefit income from various sources may change due to cost of living adjustments.

705 Dates of Benefit Payment Checks

ICI payments are made at the beginning of the month for the preceding benefit month. For example, January benefits are paid by a check dated February 1. The third party administrator is required to have the checks to the post office at least 2 days prior to the date of the check.

Claimants disabled for a minimum of six months and receiving short-term disability ICI benefits have the option of receiving benefits through electronic deposit; electronic deposit is the suggested form of payment for claimants receiving long-term disability ICI benefits. The claimant must complete the *Automated Clearing House (ACH)* authorization form provided by the third party administrator. ACH ensures that benefits are received timely and prevents checks from being delayed, lost, stolen or fraudulently cashed.

All required medical information and information from the employer must be processed by the third party administrator no later than the third week of the month in order to issue a check/payment in the next—first of the month—payroll. Upon receipt of the required medical or employer documentation, the plan language allows the third party administrator 10 calendar days to process that information for payment. Documentation received less than 10 calendar days prior to the cutoff date for check processing (the third week of the month) may cause a delay in issuing benefit payments.

Claimants failing to receive an expected benefit check after allowing reasonable time for mail delivery should contact the third party administrator. (Refer to subchapter 104 for contact information.) The third party administrator must allow the post office 12 days to deliver a check before a stop payment is issued and a new check mailed.

706 Continuation of Benefit

The third party administrator estimates the anticipated length of all ICI disability periods. Depending on the cause and severity of the disability, as indicated in the original physician statement, the third party administrator periodically requests supplemental

medical information to determine whether the insured is still disabled. The frequency of these requests depends on the nature and duration of the disability.

707 Maximum Duration of Benefits

ICI benefits are payable through the end of the month in which a claimant reaches age 65, as long as the claimant meets all of the ICI plan requirements. However, benefits may extend beyond age 65 if the claimant was 62 or older on the first date of the disability. The age on the first date of the disability determines the maximum length of time ICI benefits may be payable. ICI benefits are not paid beyond the end of the month in which the employee turns age 70.

Note: ICI claimants who return to part-time employment while receiving ICI benefits are subject to the same maximum duration limits as those returning to full-time employment.

The maximum duration of benefits for disabled insured employees is:

<u>Age at Date of Disability</u>	<u>Maximum Duration of Benefits in Years</u>
61 or younger	To age 65
62	3.50 years
63	3.00 years
64	2.50 years
65	2.00 years
66	1.75 years
67	1.50 years
68	1.25 years
69	To age 70

Example: An employee is age 67 when they first become disabled. Assuming all plan requirements are met, the employee will receive ICI benefits for 1.50 years (18 months). The ICI benefit will cease the end of the 18th month.

708 Offsets from Other Benefit Sources

ICI benefits are reduced by the gross amount of disability, retirement, separation or other income replacement benefits paid or payable from the WRS, Social Security Administration or employer sponsored/sanctioned sources. Social Security benefits that are based on the claimant's work record and paid to the spouse and dependent(s) are also a reduction to the gross ICI benefit. Claimants must apply, reapply or pursue any other benefits for which they may be eligible. ICI benefits will be reduced by the largest benefit available from other sources, even though the claimant may select an option that pays a reduced benefit amount.

A claimant younger than the normal WRS retirement age for their employment category is not required to apply for a WRS retirement or separation benefit. However, should they do so, the ICI benefit will be offset by the maximum benefit provided by that income source. Employees disabled to the extent they are eligible for a WRS or LTDI benefit, but do not apply, will have their ICI benefit reduced by the estimated disability benefit.

A claimant approved for ICI benefits is notified of the requirement to apply for all other available benefits and of the possibility that ICI benefits will need to be repaid due to the approval of the other income. Other benefit sources include:

- Any Social Security, disability or retirement benefits (including any benefits paid to the spouse or dependents) based on the employee's work record.
- Worker's Compensation – temporary total disability, temporary partial disability and compromise/settlement agreements. Note that permanent partial disability, permanent total disability, medical expenses, penalties assessed against employer and attorney fees are not offset from the ICI benefit.
- Any employer liability law benefits (i.e., Duty disability benefits approved under §40.65, Wis. Stat.).
- Any occupational disease law.
- Any Wisconsin Retirement System (WRS) retirement, disability retirement and separation benefits.
- Any employer sponsored or sanctioned salary continuation plan, including any plan whose premiums are paid or collected via payroll deduction.
- Earnings (including vacation, comp time and holiday pay) and earned sick leave.
- Unemployment compensation.

The ICI third party administrator determines whether claimants are required to apply for other benefits. Should medical evidence support the application, the claimant is required to apply for the benefit and complete the application process. For example, applications for Social Security Disability Insurance must be pursued through the administrative law judge level of appeal.

The ICI third party administrator also instructs the disabled employee to apply for Worker's Compensation (WC) benefits if the illness/injury appears work-related. When an ICI claimant receives temporary WC benefits, the ICI program must prorate sick leave credits by calculating the date the sick leave will be exhausted to supplement other program benefits, so that the equivalent of full salary continues uninterrupted until the date all the sick leave is exhausted.

The following formula is used in determining the date the sick leave is exhausted:

$$\frac{\text{Biweekly Salary}}{\text{Biweekly Salary} - 2(\text{weekly WC})} \times \text{Hours of accumulated sick leave on date disability began, including sick leave earned while pay status.} = \text{Adjusted hours of sick leave}$$

Example: An employee injured on the job was earning \$1000 biweekly at the time of injury and had 240 hours of sick leave, including sick leave earned while in pay status. WC covers the injury, with a WC benefit of \$400 biweekly. Since the WC payment will replace a portion of the employee's salary, the sick leave will not be exhausted as quickly as if there were no replacement income.

To calculate the number of sick leave hours that will elapse before ICI benefits begin, the above adjustment formula is used:

$$\frac{\$1000}{\$1000 - \$400} \times 240 \text{ hours} = 400 \text{ hours}$$

Therefore, the adjusted sick leave credit that the employee had at the date of disability is 400 hours. That amount of sick leave is used in determining the date the sick leave is exhausted.

If the temporary WC (temporary partial disability awards) vary due to part-time employment, the equivalent in hours of sick leave can be calculated as follows:

$$\frac{\text{Total dollars paid for WC}}{\text{Base hourly salary, in dollars per hour, before disability began.}} = \text{Number of full-pay hours that extend sick leave}$$

Future ICI benefits may be reduced or suspended if the employee fails to apply for WC benefits. Once a WC decision is issued, the employer must report any approved WC awards to the third party administrator who then determines whether the ICI benefit needs to be reduced. Employers must report any temporary WC disability benefits on the *Income Continuation Insurance Report of Employment and Earnings* (ET-5901). (Refer to subchapter 902.)

In the event the WC claim determination is delayed, ICI benefits will be payable following the elimination period and computed without any WC adjustment. However, ICI payments are recomputed once the WC award is determined. Overpayments created by a WC award or another income source must be repaid (to the ICI program) by the claimant. Payment options include repayment in full, monthly repayments made directly to ETF, wage assignments (garnishment) and/or withholding of future benefits.

Should an employee return to your employ in an appointment less than their pre-disability appointment, you are required to report any part-time earnings as indicated in subchapter 900.

709 Reduction or Termination of Benefits

ICI benefits are reduced or terminated when any of the following occur:

A. Return to full-time employment

Benefits are payable through the date of return or through the date medical evidence indicates the claimant is capable of returning to work full-time, if earlier. A return to full-time employment (except for employees participating under approved rehabilitation programs) is defined as the ability to perform a normal work schedule for:

- 14 consecutive calendar days if the claimant has been disabled fewer than 12 months; or
- 6 months if the claimant has been disabled for more than 12 months.

The claim may be reopened if the employee becomes disabled with the same or related disability within the above time limits. The employee needs to contact the third party administrator.

B. Return to part-time employment

Benefits continue on a reduced basis if the claimant returns to part-time employment with the pre-disability employer or if employment is approved as rehabilitative training. The ICI benefit will terminate for claimants receiving ICI benefits under the long-term disability benefit whose gross part-time earnings are equal to or greater than the gross ICI benefit. The claimant is required to begin paying ICI premiums to continue ICI coverage.

The third party administrator will contact the employers of any claimant released to return to part-time employment with restrictions to determine whether that employer can/will accommodate the restrictions.

NOTE: Claimants released to return to work for a specified number of hours but who choose to work fewer hours, will have their ICI benefit reduced by the number of hours specified by the physician release.

710 Rehabilitative Training

Rehabilitative training may be approved under the ICI program if the claimant can no longer perform their previous occupation due to disability but, with proper training and education, could be capable of performing other gainful activities. A gainful activity is one that would provide an income equal to or greater than the gross ICI benefit. Rehabilitative training may include higher education, vocational training, job counseling, on-the-job training or retraining. All rehabilitative training plans must be in writing, approved in advance by ETF, and include specific goals and dates agreed to by the claimant. In addition to regular benefits, once the rehabilitation program has been approved, the ICI program may pay expenses such as tuition or textbooks (expenses associated with rehabilitation) if these expenses are not payable from other sources. Plans developed in conjunction with the Division of Vocational Rehabilitation (DVR) and approved by DVR and presented to ETF or the third party administrator will be considered an approved rehabilitation plan.

As an incentive to return to work, only 75% of earnings from the employer under which the employee became disabled or an approved rehabilitative employment apply to the reduction of the claimant's ICI benefit. Sick leave earned after returning to work reduces the benefit amount dollar-for-dollar at the time paid. Earnings from unapproved rehabilitative employment reduce the claimant's ICI benefit amount dollar-for-dollar.

Under certain approved programs, ETF may authorize a benefit offset waiver for all or part of the rehabilitative earnings for a maximum of nine months; ETF must pre-approve the offset waiver. The claimant is required to provide appropriate documentation supporting any expenses related to accommodating their needs in getting to work and/or having an appropriate workstation.

Claimants determined physically and mentally capable of rehabilitative training who refuse to participate may have ICI benefits offset by the amount of projected rehabilitative employment earnings or may be subject to termination or suspension of ICI disability benefit payments.

711 Social Security Withholding on ICI Benefits

Social Security regulations provide that any income from a sickness or disability plan (including Long-Term Disability Insurance) received during the first six months of a disability is subject to Social Security withholding if the employer paid a portion of the ICI premiums. The percentage of the benefit subject to Social Security withholding is equal to the percentage of the gross premium paid by the employer. Therefore, ICI benefits received during the first six months include the Social Security (FICA) withholding deduction. Paid ICI benefits based on the supplemental ICI coverage are not subject to FICA because there are no employer premiums; the employee pays the entire premium for supplemental coverage.

Social Security withholding ceases when a claimant terminates during the first six months of disability due to the approval of a WRS disability retirement benefit.

712 Taxability of ICI Benefit

The percentage of benefits considered taxable income is directly proportionate to the percentage of the total ICI premium paid by the employer. The taxable portion of the benefit is based on an average of the premium percentage paid by the employer over the three years prior to the year in which the ICI benefits are first paid. This applies to the standard coverage only as the employee paid the entire premium for the supplemental coverage. However, due to continuing revisions of tax laws and the interpretation of the revenue code, claimants should consult both state and federal tax authorities for answers to specific questions concerning the exclusion or inclusion of such benefit payments as taxable income.

The ICI third party administrator automatically withholds Federal income tax from the taxable portion of a benefit at the rate of 25%. The claimant may submit Form W-4S to change the percentage of Federal tax withheld. Form W-4S is available from the Internal Revenue Service or the third party administrator.

Wisconsin State income tax will be withheld from a taxable ICI benefit only when the claimant submits the Wisconsin withholding exemption form WT-4. The form is available from the Wisconsin State Department of Revenue or the third party administrator.